# CP- Term Paper- TOC

## 1NC

### 1nc- term paper pic

#### CP Text--- Resolved: Public colleges and universities in the united states ought not restrict any speech except for term papers produced by professionals who sell them to students who turn them in as original work for academic credit

#### Term papers prepared by professionals and sold to students, even though they are cut and dry examples of plagiarism, are constitutionally protected

Duke clarifies competition , Duke Law Journal: Term Paper Companies and the Constitution, 1973 Duke Law Journal 1275-1317 (1974) Available at: <http://scholarship.law.duke.edu/dlj/vol22/iss6/3>

TERM PAPERS AS PROTECTED SPEECH UNDER THE FIRST AMENDMENT The **preparation and sale of term papers involves not only written communication but also "pure speech," an** exchange of ideas arguably **protectable under the first amendment** . 2 **The Supreme Court has indicated that this protection extends** to even the most marginal "exchanges of ideas." Justice Frankfurter conceded **in** his dissent to **Winters v. New York**17 that "[w]holly neutral futilities, of course, come under the protection of free speech as fully as do Keats' poems or Donne's sermons." **The majority in Winters stated, with more enthusiasm, that even though the magazines in question contained "nothing of any possible value,**" **they were "as much entitled to the protection of free speech as the best of literature**." ' **A term paper, arguably, is somewhat more than a "[w]holly neutral futilit[y]" and is clearly entitled to as much constitutional protection as magazines which contain "nothing of any possible value to society."**

#### Term papers devalue our education and turn innovation and competitiveness.

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**The rapidity with which state legislatures have enacted term paper statutes is only one indication of the magnitude of the problem created by the existence of term paper companies**. **Because the ready availability of term papers' 3 is a strong temptation to even the most dedicated student, some professors now feel that the likelihood of receiving purchased term papers from their students is high enough that term papers ought not be assigned in their courses.**' 4 Not only has the proliferation of term paper companies **undermine**d **the validity of a widely used educational tool**, **but also,** more importantly, **the** largescale **commercialization** of plagiarism **has focused attention on the legitimacy of the educational process itself.**

#### Regulation is necessary to produce individual and critical thinking- that checks back cheating

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Nonetheless, suggestions have been made that **the problems created by** **the appearance of term paper companies are not problems suited to or in need of either judicial or legislative resolution**, **but are instead problems peculiarly within the province of the academic community.** 58 Such an attitude seems to derive from the belief that colleges and universities function, in part at least, as expert administrative agencies of the state with both legislative and judicial powers.159 For example, **colleges and universities have been imparted the responsibility of deciding both when and how an academic degree has been obtained fraudulently**. As contrasted with a university and its expertise akin to that of an administrative agency, **a state court may be ill-equipped to determine whether an act of plagiarism has or has not occurred. A state court would lack both the accumulated knowledge of the possible forms which plagiarism or dishonesty might take and the accumulated experience in assessing the likelihood of plagiarism within a given academic community,1 0 and would perhaps lack as well the necessary skill in choosing among various available sanctions**.' 61 In line with the approach that **universities rather than legislatures or courts should solve the problems created by the term paper companies**, all aspects of the academic community have begun to respond to the problems that the unexpected emergence and rapid proliferation of these companies have created. **Student newspapers have understandably been in the forefront of the term paper discussion**. At least one such newspaper, which had earlier called for the enactment of term paper statutes and ordinances, has altered its position and now believes that **the problem of academic plagiarism is a problem that colleges and universities can and should handle internally**. 162 In addition to shifts in editorial stances, student editors of **college newspapers have** in some instances voluntarily **decided to** **cease** accepting **advertisements from term paper companies**.163

### Kant Turn

#### This turns Kant. Plagiarism misrepresents the will of the original author and the plagiarizer

Sadler 11 [Brook J. Sadler, “Nothing New Left to Say: Plagiarism, Originality, and the Discipline of Philosophy,” Florida Philosophical Review Volume XII, Issue 1, Winter 2012] JW

Kant’s own view of the author may constitute a metaphysically perplexing extreme, insofar as it suggests that the text, qua speech of a rational agent, is an extension of his noumenal self. But the modern idea that writing emanates from, manifests, or represents the unique personality of an author is what underwrites, so to speak, the modern notion of plagiarism. We must believe in the notion of original writing, seemingly freed of influences, in order to think plagiarism a distinctive, identifiable violation, especially when financial effects are absent. And the violation points in two directions. It points toward the original author, whose very person is co-opted or misrepresented through the unacknowledged taking of her words, and it points toward the plagiarizer, who misrepresents her own person by writing in someone else’s voice, making a puppet of herself as she enacts an original author’s speech. Thus, the modern complaint against plagiarism is doubly invested in the idea that the text is an enactment of the person, and that as such, it must be original.

## 2NC

### AT: Prior Constraints

The Supreme Court's hostility to prior restraints" 2 on freedoms protected by the first amendment was definitively expressed in Near v. Minnesota,1 3 a case striking down a statutory prior restraint which prevented newspapers from publishing "malicious, scandalous and defamatory" articles. 1 4 Holding the Minnesota statute unconstitutional as applied, the Court in Near indicated that its hostile attitude toward prior restraints might be overcome only under "exceptional" circumstances:"5 The objection has also been made that the principle as to immunity from previous restraint is stated too broadly, if every such restraint is deemed to be prohibited. That is undoubtedly true; the protection even as to previous restraint is not absolutely unlimited. But the limitation has been recognized only in exceptional cases. . . . No one would question but that a government might prevent actual obstruction to its recruiting service or the publication of the sailing dates of transports or the number and location of troops. On similar grounds, the primary requirements of decency may be enforced against obscene publications. The security of the community life may be protected against inc ments to acts of violence and the overthrow by force of orderly government.' 16 Prior restraints upon term papers clearly fall outside these delineated exceptions.3

ptions.317 Chief Justice Hughes forewarned in Near 'itself that future courts might create new Near exceptions "according to the principles governing the exercise of the jurisdiction of courts of equity.""" Although subsequently Chief Justice Burger has similarly recognized that unforeseen future events might compel another categorical infringement of first amendment rights," 9 it is doubtful that a new exception will be developed to allow prior restraints of term paper company activities. The Court has in fact recently restricted the "obscenity" and "national security" exceptions to the prohibition against prior restraints. 120 In five recent cases,' 2 the Court seemingly ignored the Near mandate to enforce the "primary requirements of decency" against "obscene publications," and instead severely limited the government's power to control formerly unprintable or unspeakable expressions of opinion.122 In New York Times Co. v. United States,123 the government vainly attempted to show a constitutionally sufficient necessity for maintaining the secrecy of the "Pentagon Papers." The Court's holding indicated that a prior restraint in the form of a suit to enjoin publication could not be validated as an indispensable element of "the security of the community life" or as coming within the "[national] security" Near exception. 124 That no new exceptions to the Near doctrine will be forthcoming is further evidenced by the Supreme Court's disinclination to develop an exception previously in an analogous context. In the 1950's, when the debate over crime comic books approached the intensity of the current concern over term paper companies, 2 1 a new exception to the prohibition against prior restraints which would expressly cover crime comics was unsuccessfully urged as one solution to the problem. 26